

HOUSE BILL 3759

By Maggart

AN ACT to amend Tennessee Code Annotated, Section 39-11-713; Section 50-7-701; Title 56, Chapter 57; Section 71-5-148; Title 71, Chapter 5, Part 25 and Title 71, Chapter 5, Part 5, relative to providing the office of inspector general authority to investigate fraud and abuse in the Volunteer or Cover Rx programs, the Tennessee pharmaceutical connection program and the health care safety net, or any successor programs thereto.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-11-713(b), is amended by adding the following language as new, appropriately designated subdivisions:

(5)(A) In any matter concerning or arising out of fraud or abuse or other violations of state law related to the Volunteer Rx program, codified in title 56, chapter 57, part 1; the Tennessee pharmaceutical connection program, codified in title 71, chapter 5, part 5; and the health care safety net, as provided in § 71-5-148, that is or may be the subject of a proceeding pursuant to this part, the district attorney general may, upon consent of the inspector general of the office of inspector general, created pursuant to title 71, chapter 5, part 25, specially appoint a licensed attorney employed by the office of inspector general, to prepare, initiate, and conduct such proceedings as the district attorney general is authorized by law to conduct pursuant to this part.

(B) The acts of an attorney acting for the district attorney general pursuant to this subdivision (b)(5) shall be valid as if done by the district attorney general, and there shall be no requirement that the district attorney general be disqualified from acting or that there be a vacancy in the office. Nor shall the district attorney general or any of the district attorney general's assistants be compelled to attend court proceedings in the matters in which an attorney is acting for the district attorney general pursuant to this

subdivision (b)(5) provided, that the district attorney general or any of the district attorney general's assistants may be in attendance, and participate, if the district attorney general so desires. The authority to make such appointments extends to all proceedings brought under this part, whether civil or criminal.

SECTION 2. Tennessee Code Annotated, Section 50-7-701(a)(1)(B), is amended by deleting the language "or" at end of subdivision (B)(iv), deleting the punctuation "." at end of (B)(v) and substituting the language "; or", and by adding the following language as a new, appropriately designated subdivision:

(vi) The office of inspector general, and its duly authorized agents and contractors, for the sole purpose of investigating the Volunteer Rx program, codified in title 56, chapter 57, part 1; the Tennessee pharmaceutical connection program, codified in title 71, chapter 5, part 5; and the health care safety net, as provided in § 71-5-148; provided, that the information disclosed shall only include member, enrollee and applicant information, and that such information shall be used only for: verification of eligibility, verification of access to private group health insurance or Medicare prescription drug benefits, and determination of whether the member, applicant, or enrollee is being charged and is paying correct premium or other cost-sharing amounts. It is further provided that, before any such agent or contractor may have such access to such information, the agent or contractor shall execute an agreement with the office of inspector general, warranting that any information obtained as provided in this section shall remain confidential, shall not be disclosed by the agent or contractor to third parties or subcontractors, and that the agent or contractor shall limit such use to the purposes set forth in this section. Such agreement shall further require that the contractor or agent return or destroy all confidential information received during the course of the contract or agency, and use appropriate safeguards to prevent use or disclosure other than as

provided for by law and by the contract or agency agreement. Nothing in subdivision (a)(1)(B)(v) shall be construed to prevent the office of inspector general from sharing such information with other public agencies, including law enforcement agencies, in the performance of the official duties of the office of inspector general and those agencies, as may be otherwise provided by law.

SECTION 3. Tennessee Code Annotated, Title 56, Chapter 57, is amended by adding the following language as a new, appropriately designated section:

56-57-107.

(a) The office of inspector general, created pursuant to § 71-5-2502, shall have the authority to investigate civil and criminal fraud and abuse or any other violations of state criminal law related to the operation of the Volunteer Rx program or any successor program created pursuant to this part.

(b) All of the authority and powers of the office of inspector general, including but not limited to the use of law enforcement officers, set forth in title 71, chapter 5, parts 25 and 26, shall also be applicable to any investigation of civil or criminal fraud and abuse of the Volunteer Rx program or any successor program created pursuant to this chapter.

(c) The office of inspector general shall be the lead agency responsible for investigation of fraud and abuse in the Volunteer Rx program or any successor program created pursuant to this chapter.

SECTION 4. Tennessee Code Annotated, Section 71-5-148, is amended by adding the following language as a new, appropriately designated subsection:

( ) The office of inspector general, created pursuant to § 71-5-2502, shall have the authority to investigate civil and criminal fraud and abuse or any other violations of state criminal law related to the operation of the health care safety net or any successor program created pursuant to this section.

(1) All of the authority and powers of the office of inspector general, including but not limited to the use of law enforcement officers, shall also be applicable to any investigation of civil or criminal fraud and abuse of the health care safety net or any successor program created pursuant to this section; and

(2) The office of inspector general shall be the lead agency responsible for investigation of fraud and abuse in the health care safety net or any successor program created pursuant to this section.

SECTION 5. Tennessee Code Annotated, Section 71-5-2503, is amended by designating the existing language as subsection (a) and by adding the following language as a new subsection (b):

(b) The definitions in this section shall also apply to the Volunteer Rx program, codified in title 56, chapter 57, part 1; the Tennessee pharmaceutical connection program, codified in title 71, chapter 5, part 5; and the health care safety net, as provided in § 71-5-148, unless the context requires otherwise.

SECTION 6. Tennessee Code Annotated, Section 71-5-2505(12), is amended by deleting the subdivision in its entirety and by substituting instead the following:

Investigate civil and criminal fraud and abuse, or any other violations of state criminal law, related to the operation of any program or successor program created pursuant to the Access Tennessee Act of 2006, compiled in title 56, chapter 7, part 29; the Cover Tennessee Act of 2006, compiled in title 56, chapter 7, part 30; the CoverKids Act of 2006, compiled in chapter 3, part 11 of this title; the Volunteer Rx program, codified in title 56, chapter 57, part 1; the Tennessee pharmaceutical connection program, codified in title 71, chapter 5, part 5; or the health care safety net, as provided in § 71-5-148.

SECTION 7. Tennessee Code Annotated, Title 71, Chapter 5, Part 5, is amended by adding the following language as a new, appropriately designated section:

71-5-508.

(a) The office of inspector general, created pursuant to § 71-5-2502, shall have the authority to investigate civil and criminal fraud and abuse or any other violations of state criminal law related to the operation of the Tennessee pharmaceutical connection program or any successor program created pursuant to this part.

(b) All of the authority and powers of the office of inspector general, including but not limited to the use of law enforcement officers, shall also be applicable to any investigation of civil or criminal fraud and abuse of the Tennessee pharmaceutical connection program or any successor program created pursuant to this part

(c) The office of inspector general shall be the lead agency responsible for investigation of fraud and abuse in the Tennessee pharmaceutical connection program or any successor program created pursuant to this part.

SECTION 8. The provisions of this act are declared to be remedial in nature and all provisions of this act shall be liberally construed to effectuate its purposes.

SECTION 9. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 10. This act shall take effect upon becoming law, the public welfare requiring it.